

**ATTACHMENT A: FINDINGS AND CONCLUSIONS  
FOR PROPOSED COMPREHENSIVE UPDATE TO THE SAN JUAN COUNTY  
SHORELINE MASTER PROGRAM**

SMP Submittal accepted July 7, 2016, Ordinance No. 01-2016

**Brief Description of Proposed Amendment:**

San Juan County (County) has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions, as well as local ordinances #52-2008, 26-, 27-, 28-, 29-2012, 2-2014, 16-2014 and 1-2015 adopted by reference as part of the SMP. Additional reports and supporting information and analyses noted below are included in the submittal.

**FINDINGS OF FACT**

**Need for amendment.** The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the county's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The original County SMP was approved by Ecology in 1976 and was last comprehensively updated in 1998. This SMP update is also needed to address land use changes that have occurred along the County's shorelines over the past 18 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the County's Critical Areas Ordinance, Comprehensive Plan, and Flood Management Plan.

**SMP provisions to be changed by the amendment as proposed:** This comprehensive SMP update is intended to entirely replace the County's existing SMP. This SMP will regulate approximately 455 miles of marine shorelines and 26 miles of freshwater shorelines.

**Amendment History, Review Process:** The records show Ecology awarded the County a grant agreement to update the SMP in January of 2011. The adopted ordinance lists the workshops and a great number of public meetings and hearings over the course of five years. With passage of Ordinance No. 01-2016, on April 5, 2016, the County authorized staff to forward the proposed amendments to Ecology for approval.

Ecology received the proposed SMP amendments for state review and verified as complete on July 7, 2016. We distributed notice of the state public comment period to state task force members and interested parties identified by the County in July 2016, in compliance with the requirements of WAC 173-26-120. The state comment period began on July 25 and continued through September 2. A total number of 55 individuals or organizations submitted comments on the proposed amendments. Ecology sent all written comments it received to the county on September 28. On December 16, the County submitted to Ecology its responses to issues raised during the state comment period. Ecology's own responses to issues raised during the comment period are available as part of the SMP amendment process record.

**Consistency with Chapter 90.58 RCW:** The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The county has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

**Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):** We have reviewed the proposed amendment for compliance with the requirements of the applicable SMP Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which the County completed.

**Consistency with SEPA Requirements:** The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on April 24, 2013. *The Journal of the San Juan Islands* published notice of the SEPA determination on April 25, 2013. Ecology did not comment on the DNS.

**Other Studies or Analyses supporting the SMP update:** Ecology also reviewed the following reports, studies, map portfolios and data prepared for the County in support of the SMP amendment:

- April 2013, *Shoreline Inventory and Characterization Report* (includes use analysis).
- April 19, 2016, *Cumulative Impacts Analysis* (includes “Net Effect on Ecological Function”).
- April 5, 2016, *Shoreline Restoration Plan*.
- February 23, 2012, *Updated Public Participation Plan*.

#### **Summary of Issues Raised During The Public Review Process:**

Considerable debate centered on the removal of parallel shoreline designations and the replacement of SMP provisions. Several commenters expressed concern that environmental protection has been lessened.

#### **CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County’s proposed comprehensive SMP update, subject to and including changes identified in Attachment B, is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the proposed SMP, subject to recommended changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new, updated master program (WAC 173-26-201(2)(c)).

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of SMA policy (RCW 90.58.090(5)).

Ecology concludes that the County has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the County has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest, and solicitation of comments from tribes, government agencies, and Ecology.

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of SMP amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the County has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the County's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

## **DECISION AND EFFECTIVE DATE**

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with SMA policy, the applicable guidelines, and implementing rules, once the County approves changes set forth in Attachment B. Ecology approval of the proposed amendments with changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the County may choose to submit an alternative to the changes identified by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternative/s.